

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of LYDIAH NIEDZIELSKI, Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

NEIL COUCH,

Respondent-Appellant,

and

SHANNON NIEDZIELSKI,

Respondent.

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UNPUBLISHED

June 12, 2001

No. 231196

Mecosta Circuit Court

Juvenile Division

LC No. 97-003159-NA

Before: Hoekstra, P.J., and Talbot and Zahra, JJ.

PER CURIAM.

Respondent-appellant, Neil Couch, appeals as of right from an order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), (g), (j) and (l); MSA 27.3178(598.19b)(3)(c)(i), (c)(ii), (g), (j) and (l). We affirm.

Respondent-appellant argues that the trial court erred in terminating his parental rights because there was not clear and convincing evidence supporting termination. We disagree. We review a trial court's decision to terminate parental rights under the clearly erroneous standard. MCR 5.974(I); *In re Cornet*, 422 Mich 274, 277; 373 NW2d 536 (1985). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with the definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). We are required to give regard to the special ability of the trial court to judge the credibility of the witnesses before it. MCR 2.613(C); *In re Miller, supra*.

After reviewing the record in the present case, we conclude that the trial court did not clearly err in finding that the statutory grounds were established by clear and convincing evidence. Lydiah was born May 11, 1998, and placed in foster care soon after. On November 5,

1998, respondent-appellant's parental rights to another child were terminated pursuant to MCL 712A.19b(3)(c)(i) and (c)(ii); MSA 27.3178(598.19b)(3)(c)(i) and (c)(ii). The order of termination was affirmed by this Court.<sup>1</sup>

The record indicates that respondent-appellant made some efforts to comply with conditions of his parent/agency treatment plan. Records filed by Arizona caseworkers suggest that while living in Arizona during much of the adjudication of this case, respondent-appellant took part in some counseling and parenting classes. Lydiah was sent to live with relatives of respondent-appellant in Arizona in March 1999, allowing respondent-appellant regular visitation. However, as a result of a dispute between respondent-appellant and those relatives, the relatives were no longer willing to care for Lydiah and she was sent back to live with maternal relatives in Michigan in June 1999.

Respondent-appellant acknowledged visiting Lydiah only one time between June 1999 and the October 2000 termination hearing. That single visit was incidental to a review hearing in March 2000. Respondent-appellant did not take part in a two-week court-ordered period of visitation in May 2000. At the termination hearing, respondent-appellant admitted that he had not inquired as to Lydiah's well-being between the time she returned to Michigan and the termination hearing. Furthermore, while it appears that respondent-appellant maintained his own apartment in Arizona for one year prior to termination, there was evidence to support a finding that he had not complied with the other goals of his parent-agency treatment plan. The record reveals that respondent-appellant last took part in therapy and anger management counseling in October 1999, and had not provided the FIA with verification that he completed any counseling program. Respondent-appellant also did not complete parenting classes or provide verification of adequate daycare as of the date of the termination hearing. Respondent-appellant was living with his grandparents in a two-bedroom residence at the time of termination. He acknowledged that he provided only a nominal amount of support for Lydiah since her birth. Overall, the record supports a finding that respondent-appellant was unable to care for Lydiah and could not provide a safe, suitable home for the child. Under these circumstances, the trial court did not err in terminating respondent-appellant's parental rights to Lydiah. MCR 5.974(I); *Cornet, supra*.

Respondent-appellant also argues that termination of his parental rights was contrary to Lydiah's best interests. At the time of the termination hearing, Lydiah was placed with maternal relatives along with her two siblings. By all indications, Lydiah was thriving in that environment. While respondent-appellant was gainfully employed and expressed interest in regaining custody of Lydiah, a review of the record as a whole suggests that respondent-appellant took little interest in improving his parenting skills and developing a relationship with Lydiah. Respondent-appellant had not demonstrated that he could provide a safe, suitable home for Lydiah or otherwise provide for her care. Accordingly, there is not clear evidence, on the whole record, that termination was not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo*, 462 Mich 341, 354, 364-365; 612 NW2d 407 (2000).

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<sup>1</sup> *In re Cherish Niedzielski*, unpublished memorandum opinion of the Court of Appeals, issued 4/14/00 (Docket No. 216339).

Affirmed.

/s/ Joel P. Hoekstra  
/s/ Michael J. Talbot  
/s/ Brian K. Zahra